

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Mohamed K. Diab et al.
App. No. : 10/677,050
Filed : September 30, 2003
For : SIGNAL PROCESSING
APPARATUS
Examiner : Eric F. Winakur
Art Unit : 3768
Conf. No. : 7712

**EFS Web Transmission
Certification**

I hereby certify that this correspondence
and all marked attachments are being
transmitted via EFS, on

August 29, 2008

(Date)

Jarom D. Kesler, Reg. No. 57,046

**REQUEST TO WITHDRAW PETITION AND SUPPLEMENTAL REQUEST TO
CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48(a)****Mail Stop Amendment**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request that the "Petition under 37 C.F.R. § 1.183 Requesting Waiver of the Requirement of 37 C.F.R. § 1.48(a)" ("the Petition") filed in the above reference application be withdrawn. On August 27, 2008, Applicants filed the Petition requesting a waiver of the requirement of 37 C.F.R. § 1.48(a) because Ibrahim M. Elfadel, one of the errantly named inventors, expressly refused to sign a statement as required by 37 C.F.R. § 1.48(a)(2). It was believed at that time, based on the communications with Mr. Elfadel submitted with the Petition, that he was not willing to sign the statement either at that time or anytime in the future. However, on August 28, 2008, Mr. Elfadel contacted Applicants council, Jarom D. Kesler, esq. stating that he had changed his position after discussing the matter with his own council and would be willing to sign a statement under 37 C.F.R. § 1.48(a)(2). Mr. Elfadel subsequently signed a statement which is submitted herewith. Accordingly, Applicants request the Petition be withdrawn and the previously submitted petition fee of \$400.00 under 37 C.F.R. § 1.17(f) be refunded or credited to deposit Deposit Account No. 11-1410.

Application No.: 10/677,050
Filing Date: September 30, 2003

Applicants also hereby request that the inventorship of the above-identified application be corrected under 37 C.F.R. § 1.48(a). Please correct this application to delete the following previously listed inventors:

Ibrahim M. Elfadel
Rex J. McCarthy
Robert A. Smith

Accordingly, the correct inventorship for this application is as follows:

Mohamed K. Diab
Massi E. Kiani (formally, Esmail Kiani-Azarbayjany)
Walter M. Weber

Pursuant to the requirements of 37 C.F.R. § 1.48(a), transmitted with this request are:

- (1) A statement, under 37 C.F.R. § 1.48(a), from Rex J. McCarthy, Ibrahim M. Elfadel, and Robert A. Smith stating that the inventorship error occurred without deceptive intention on his or her part;
- (2) A declaration signed by the actual inventors as required by 37 C.F.R. § 1.63;
- (3) A consent of the Assignee to correct inventorship under 37 C.F.R. § 1.48(a)(5); and
- (4) The processing fee of \$130 for correction of inventorship, under 37 C.F.R. § 1.17(i) was paid previously with the Request to Correct Inventorship Under 37 C.F.R. § 1.48(a) on August 27, 2008. Accordingly, it is believed that no further processing fee is required. If a further processing fee is required, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

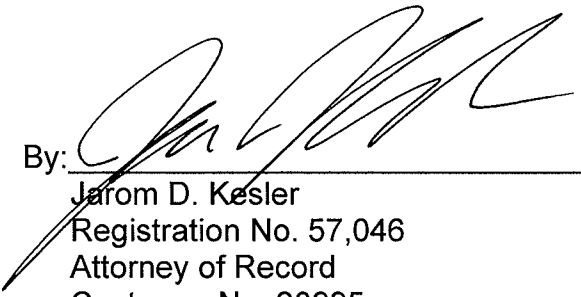
Application No.: 10/677,050
Filing Date: September 30, 2003

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: August 29, 2008

By: 

Jarom D. Kesler
Registration No. 57,046
Attorney of Record
Customer No. 20995
(949) 760-0404

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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STATEMENT OF REX J. MCCARTHY UNDER 37 C.F.R. § 1.48(a)(2)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Rex J. McCarthy, was mistakenly named as an inventor of the subject matter claimed in the above-referenced patent application. The inclusion of my name as an inventor was an error that occurred without any deceptive intent on my part.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Dated: August 22, 2008

By:

Rex J. McCarthy
Rex J. McCarthy

Please Direct All Correspondence to Customer Number **20,995**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Mohamed K. Diab et al.
Appl. No : 10/677,050
Filed : September 30, 2003
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STATEMENT OF IBRAHIM M. ELFADEL UNDER 37 C.F.R. § 1.48(a)(2)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Ibrahim M. Elfadel, through no fault of my own was mistakenly named as an inventor of the subject matter claimed in the above-referenced patent application. The inclusion of my name as an inventor was an error that occurred without any deceptive intent on my part.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Dated: 08/28/08

By: Ibrahim M. Elfadel

Ibrahim M. Elfadel

Docket No.: MASIMO.7CP1C10

PATENT

Please Direct All Correspondence to Customer Number 20,995

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Mohamed K. Diab et al.
Appl. No	:	10/677,050
Filed	:	September 30, 2003
For	:	SIGNAL PROCESSING APPARATUS
Examiner	:	Eric F. Winakur
Art Unit	:	3768
Conf #	:	7712

STATEMENT OF ROBERT A. SMITH UNDER 37 C.F.R. § 1.48(a)(2)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Robert A. Smith, was mistakenly named as an inventor of the subject matter claimed in the above-referenced patent application. The inclusion of my name as an inventor was an error that occurred without any deceptive intent on my part.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Dated: 8.25.08

By: Robert A. Smith
Robert A. Smith

**DECLARATION FOR UTILITY OR DESIGN APPLICATION
UNDER 37 CFR 1.63**

Docket No.: MASIMO.7CP1C10

Page 1 of 2

Title: SIGNAL PROCESSING APPARATUS

Inventors: Mohamed K. Diab, Massi E. Kiani, Walter M. Weber

Please Direct All Correspondence to Customer Number 20,995

This Declaration is directed to the invention that:

(X) Was filed as Serial No. 10/677050 filed on September 30, 2003.

As a below named inventor:

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is described and claimed and for which a patent is sought;

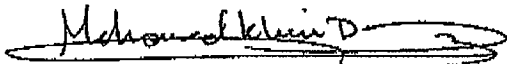
I have reviewed and understand the contents of the above-identified application, including the claims, and any amendment filed herewith or identified above;

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56;

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Mohamed K. Diab

Signature:



Date: June 13 - 2008

Citizenship:

~~Syria~~ U.S.A.

Mailing Address:

~~30041 Tessier Apt. #98, Laguna Niguel, CA 92677~~

Residence Address:

(if different than above)

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LADERA RANCH, CA 92694

**DECLARATION FOR UTILITY OR DESIGN APPLICATION
UNDER 37 CFR 1.63**

Docket No.: MASIMO.7CP1C10

Page 2 of 2

Title: SIGNAL PROCESSING APPARATUS

Inventors: Mohamed K. Diab, Massi E. Kiani, Walter M. Weber

Please Direct All Correspondence to Customer Number 20,995

Full name of **second** inventor: Massi E. Kiani

Signature: _____

Date: _____

Citizenship: Iran

Mailing Address: 35 Brindisi, Laguna Niguel, CA 92677

Residence Address:
(if different than above)

Full name of **third** inventor: Walter M. Weber

Signature: _____

Date: _____

Citizenship: United States

Mailing Address: 7260 Hillside Avenue #108, Los Angeles, CA 90046

Residence Address:
(if different than above)

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP
Customer No. 20,995

**DECLARATION FOR UTILITY OR DESIGN APPLICATION
UNDER 37 CFR 1.63**

Docket No.: MASIMO.7CP1C10

Page 1 of 2

Title: SIGNAL PROCESSING APPARATUS

Inventors: Mohamed K. Diab, Massi E. Kiani, Walter M. Weber

Please Direct All Correspondence to Customer Number 20,995

This Declaration is directed to the invention that:

(X) Was filed as Serial No. 10/677050 filed on September 30, 2003.

As a below named inventor:

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is described and claimed and for which a patent is sought;

I have reviewed and understand the contents of the above-identified application, including the claims, and any amendment filed herewith or identified above;

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56;

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of **first** inventor: Mohamed K. Diab

Signature: _____ Date: _____

Citizenship: Syria

Mailing Address: 30041 Tessier Apt. #98, Laguna Niguel, CA 92677

Residence Address:
(if different than above)

**DECLARATION FOR UTILITY OR DESIGN APPLICATION
UNDER 37 CFR 1.63**

Docket No.: MASIMO.7CP1C10

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Title: SIGNAL PROCESSING APPARATUS

Inventors: Mohamed K. Diab, Massi E. Kiani, Walter M. Weber

Please Direct All Correspondence to Customer Number 20,995

Full name of **second** inventor: Massi E. Kiani

Signature: _____

Date: _____

Citizenship: _____

Iran

Mailing Address: _____

35 Brindisi, Laguna Niguel, CA 92677

Residence Address: _____

(if different than above)

Full name of **third** inventor: Walter M. Weber

Signature: _____

Date: _____

Citizenship: _____

United States

Mailing Address: _____

7260 Hillside Avenue #108, Los Angeles, CA 90046

Residence Address: _____

(if different than above)

Send Correspondence To:

KNOBBE, MARTENS, OLSON & BEAR, LLP

Customer No. 20,995

**DECLARATION FOR UTILITY OR DESIGN APPLICATION
UNDER 37 CFR 1.63**

Docket No.: MASIMO.7CP1C10

Page 1 of 2

Title: SIGNAL PROCESSING APPARATUS

Inventors: Mohamed K. Diab, Massi E. Kiani, Walter M. Weber

Please Direct All Correspondence to Customer Number 20,995

This Declaration is directed to the invention that:

☒ Was filed as Serial No. 10/677050 filed on September 30, 2003.

As a below named inventor:

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is described and claimed and for which a patent is sought;

I have reviewed and understand the contents of the above-identified application, including the claims, and any amendment filed herewith or identified above;

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56;

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of **first** inventor: Mohamed K. Diab

Signature: _____ Date: _____

Citizenship: Syria

Mailing Address: 30041 Tessier Apt. #98, Laguna Niguel, CA 92677

Residence Address:
(if different than above)

**DECLARATION FOR UTILITY OR DESIGN APPLICATION
UNDER 37 CFR 1.63**

Docket No.: MASIMO.7CP1C10

Page 2 of 2

Title: SIGNAL PROCESSING APPARATUS

Inventors: Mohamed K. Diab, Massi E. Kiani, Walter M. Weber

Please Direct All Correspondence to Customer Number 20,995

Full name of **second** inventor: Massi E. Kiani

Signature: _____ Date: _____

Citizenship: Iran

Mailing Address: 35 Brindisi, Laguna Niguel, CA 92677

Residence Address:
(if different than above)

Full name of **third** inventor: Walter M. Weber

Signature: Walter M. Weber Date: August 12, 2008

Citizenship: United States

Mailing Address: 7260 Hillside Avenue #108, Los Angeles, CA 90046

Residence Address:
(if different than above)

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR, LLP
Customer No. 20,995

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08/26/2008 16:15 9492977099

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MASIMO CORPORATION

P. 002
PAGE 02

MASIMO.7CP1C10

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Mohamed K. Diab et al.
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CONSENT OF ASSIGNEE UNDER 37 C.F.R. § 1.48(a)(5)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The undersigned is an empowered representative of the Assignee. On behalf of the Assignee, Masimo Corporation, and in accordance with 37 C.F.R. § 1.48(a)(5), the undersigned hereby provides his consent to the Petition to Correct Inventorship Under 37 C.F.R. § 1.48 filed concurrently herewith.

Dated: 8/26/08

By: 

Printed Name: STEPHEN M. MORAN

Title: EXECUTIVE VICE PRESIDENT

Address: Masimo Corporation
40 Parker
Irvine, CA 92618

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